



FOREIGN EMPLOYMENT AND EMPLOYMENT ON AMERICAN VESSELS OR AIRCRAFT

FOREIGN EMPLOYMENT BY A UNITED STATES CITIZEN

UNEMPLOYMENT INSURANCE, DISABILITY INSURANCE, AND EMPLOYMENT TRAINING TAX

For purposes of unemployment insurance (UI), disability insurance (DI), and employment training tax (ETT), a citizen of the United States performing services outside the United States and Canada for an American employer is covered by California law if:

1. The American employer's principal place of business in the United States is in California, or
2. The employer has no place of business in the United States, but:
 - The employer is a resident of California, or
 - The employer is incorporated under California laws, or
 - The employer is a partnership or trust and the number of partners or trustees is comprised of more California residents than residents of any other state.
3. If the criteria in #1 or #2 is not met, then the worker is covered by California law if the employer has elected coverage in California. If the employer has not elected coverage in California or any other state, the worker is covered by California law if the worker has filed a benefit claim in California.

An "American employer" means a person who is any of the following:

- (a) An individual who is a resident of the United States.
- (b) A partnership, if two-thirds or more of the partners are residents of the United States.

(c) A trust, if all the trustees are residents of the United States.

(d) A corporation organized under the laws of the United States or of any state.

PERSONAL INCOME TAX WITHHOLDING

Wages paid to a California resident are subject to California personal income tax (PIT) withholding. This includes wages paid by an American employer to a California resident regardless of whether the worker performed the services in California. This also includes wages paid to a California resident for services on an American aircraft unless the employee provides 50% or more of his or her services in any one other state (be it on the ground or in the air). However, wages paid for services on an American vessel are not subject to California PIT withholding regardless of the worker's state of residency.

EXAMPLES:

XYZ Company, a Delaware Corporation maintains its principal place of business in California, but has branch offices in London, England and Paris, France. XYZ hired John Jones, a U.S. citizen to manage the London operations and John and his family have moved their residence to England. John's services are subject to UI, ETT, and DI in California. His wages are not subject to state personal income tax withholding, because he is not a California resident and he performed no services in California.

Citizens of countries other than the United States may also be subject to California law. For example:

FACTS:

Mr. X, a foreign citizen and president of a corporation in his country, comes to California two weeks every year to visit a subsidiary corporation operating in California. He is paid wages by the subsidiary for management services while visiting in California. At the end of two weeks he returns to his home country.

RESULT:

The two weeks wages paid to Mr. X by the subsidiary are subject to all California payroll taxes even though Mr. X is neither a citizen of the United States nor a resident of California.

EMPLOYMENT ON AN AMERICAN VESSEL OR AIRCRAFT-WITHIN OR WITHOUT THE UNITED STATES

Service performed for an employing unit on or in connection with an American vessel operating on navigable waters within or within and without the United States or on or in connection with an American aircraft operating within or within and without the United States is reportable to California if:

- The employing unit maintains in California an operating office which the operations of the American vessel or aircraft are ordinarily and regularly supervised, managed, directed, and controlled, and
- Such services are included in "employment" under the Federal Unemployment Tax Act (FUTA).

"American vessel" means any vessel documented under the laws of the United States, and includes any vessel which is neither documented or numbered under the laws

of the United States nor documented under the laws of any foreign country, if the crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

"American aircraft" means an aircraft registered under the laws of the United States.

CS Company sails cruise ships from San Francisco to Alaska with a stop at a port in the State of Washington.

CS' ships are all documented under the laws of the United States and CS regularly supervises, manages, directs and controls its ships from its office located in San Francisco.

Wages paid to the crew members are reportable to California.

Workers performing services on or in connection with a vessel or aircraft that is not an American vessel or American aircraft are not in covered employment if the worker is employed on or in connection with such vessel or aircraft when outside the United States.

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities. TDD Users, contact the California Relay Service: 1-800-735-2929.